

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

PROGRESSIVE INTERNATIONAL
CORPORATION,

Plaintiff,

v.

Neway International, Inc.,
Defendant.

Civil Action No.

COMPLAINT FOR PATENT
INFRINGEMENT

JURY DEMANDED

Plaintiff Progressive International Corp. (“Progressive”) hereby alleges as follows against
Neway International, Inc. (“Neway”).

PARTIES

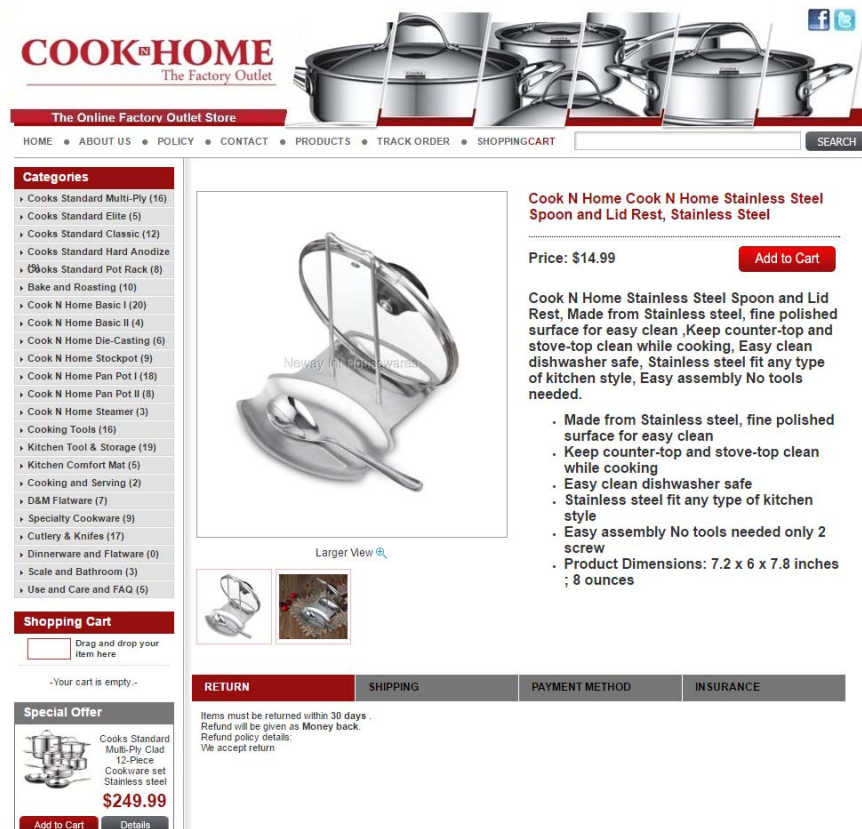
1. Progressive is a corporation organized and existing under the laws of the state of
Delaware having its principal place of business at 20435 72nd Avenue South, Suite 400, Kent,
Washington, 98032.

2. Upon information and belief, defendant Neway is a California corporation having
a principal place of business at 915 South Azusa Avenue, City of Industry, CA 91748.

JURISDICTION AND VENUE

3. This action arises under the patent laws of the United States, 35 U.S.C. §§ 271, 281 and 289. Accordingly, original jurisdiction is conferred upon this Court pursuant to 28 U.S.C. §§ 1331.

4. Neway has offered for sale or sold a spoon rest in the United States, including in the Western District of Washington. Neway does business under the trademark “Cook N Home,” and operates an Internet site at cooknhome.com. Neway also sells its products online at amazon.com. Neway’s online sales efforts are directed to customers nationally, including in the Western District of Washington. The cooknhome.com website is an active site from which its products may be directly purchased using a shopping cart model. The accused spoon rest has been offered for sale nationwide using the shopping cart website, as shown in the image from the website at cooknhome.com.



5. The accused spoon rest has also been sold by Neway or other resellers, for example through Amazon.com, with the purpose and intent that the product would be offered and sold throughout the United States and within this district. An image of the product as offered by Amazon.com is shown below.



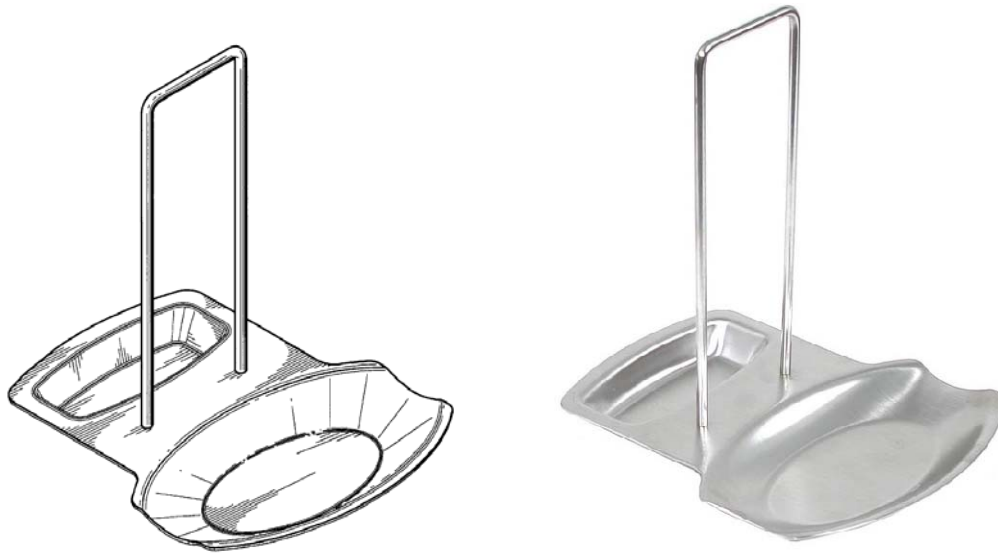
6. Neway is therefore subject to personal jurisdiction in the Western District of Washington.

7. For purposes of venue, Neway resides in the Western District of Washington pursuant to 28 U.S.C. § 1391(c).

PROGRESSIVE'S PATENTED PRODUCT

8. Progressive is the assignee of U.S. Patent No. D475,898 (the '898 patent) claiming an ornamental design for a combined spoon and lid rest.

9. Progressive has sold a commercial embodiment under the above patent, and its product has enjoyed commercial success. Progressive has marked its product with the number of the '898 patent. An image from the '898 patent is below at the left; an image of the Progressive commercial product is below at the right.



NEWAY'S WRONGFUL CONDUCT

10. Neway has made, imported, offered for sale, and/or sold spoon rests that infringe Progressive's patent rights.

11. The Neway product, sold under the Cook N Home brand name, is shown below.



12. As is clear from the above image, the Neway spoon rest is a close copy of the Progressive spoon rest, and infringes the '427 patent.

13. Neway has known that its spoon rests infringe the above Progressive patent. On November 19, 2015, counsel for Progressive submitted an infringement notice to Amazon.com to provide notice of the infringement. Neway did not respond to the infringement notice, and has continued to sell the accused products even after having notice of the infringement.

COUNT I: INFRINGEMENT OF DESIGN PATENT NO. D475,898

14. Progressive repeats the allegations above.

15. The accused spoon rests made, offered for sale, sold, and imported by Neway infringe Progressive's '898 patent.

16. Neway has not been granted any license or other authority from Progressive.

17. The activities by Neway with regard to its spoon rest products constitute direct infringement of the '898 patent pursuant to 35 U.S.C. § 271.

18. As a direct result of the infringing activity by Neway, Progressive has suffered, and will continue to suffer, damages in an amount to be established at trial. In addition, Progressive has suffered, and continues to suffer, irreparable harm for which there is no adequate remedy at law.

19. The infringement by Neway was with full knowledge of the Progressive patent, and has continued despite that knowledge. Neway's infringement is in willful disregard of Progressive's patent rights.


REQUEST FOR RELIEF

Progressive requests the following alternative and cumulative relief:

1. That Neway be preliminarily and permanently enjoined and restrained from directly or indirectly making, using, importing, exporting, offering for sale, or selling infringing spoon rests or colorable imitations thereof;
2. That Neway pay damages adequate to compensate Progressive for the infringement by the Neway, and in no event less than a reasonable royalty for the use of the invention;
3. That the damages award be trebled pursuant to 35 U.S.C. § 284;
4. That Progressive be granted its reasonable attorneys' fees pursuant to 35 U.S.C. § 285 or other applicable laws;

Progressive demands a jury trial on all issues triable by jury.

DATED this 20th day of March, 2017.

s/ 
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